

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
No. 2:11-CR-4-D
No. 2:15-CV-45-D


DEMETRIUS SPENCE,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)

ORDER

On March 6, 2017, the United States moved for summary judgment on the one remaining claim in this action under 28 U.S.C. § 2255 [D.E. 133], filed a memorandum in support [D.E. 134], and filed a statement of material fact [D.E. 135]; cf. [D.E. 129]. On April 3, 2017, Demetrius Spence responded in opposition [D.E. 137] and filed a statement of material facts [D.E. 138].

Genuine issues of material facts exist concerning trial counsel's alleged advice concerning an alleged plea agreement. Thus, the court DENIES the motion for summary judgment [D.E. 133]. The court will hold an evidentiary hearing on June 23, 2017, at 9:00 a.m. Each side may file a trial brief and proposed finding of fact and conclusion of law by June 16, 2017.

SO ORDERED. This 12 day of May 2017.



JAMES C. DEVER III
Chief United States District Judge